IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

WP(C).No. 11469 of 2007(M)

PETITIONERS:
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1. **REGHUNATHAN NAIR, S/O. DAMODARA KURUP, LAMMAMTHARA MALIKA, THEVERVATTOM MURI, THYCKATTUSSERY, CHERTHALA.**

2. **SMT. REMA DEVI, D/O. TENAMMA, MANNEZHTHU PUTHENVEETTIL, THEVERVATTOM, THYCAKATTUSSERY.**

3. **OUSEPH MATHAI, ANCHU PUNNACKAL, THEVERVATTOM MURI, THYCAKATTUSSERY.**

BY ADV. SRI.S.KRISHNAMOORTHY

RESPONDENTS:
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1. **SPECIAL TAHSILDAR, LAND ACQUISITION (GENERAL), O/O COLLECTORATE, ALAPPUZHA.**

2. **CHIEF ENGINEER, J.B.I.C., KERALA WATER AUTHORITY PROJECT JALA BHAVAN, VELLAYAMBALAM P.O., THIRUVANANTHAPURAM.**

3. **THE PROJECT MANAGER, J.B.I.C., KERALA WATER AUTHORITY, OPP,. B.S.N.L. EXCHANGE, CHERTHALA.**

BY GOVERNMENT PLEADER SHRI L.G. SURESH BABU R1
BY ADVOCATE SHRI BABU VARGHESE R2 & 3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE NOTICE DATED 21.2.2007 ISSUED TO THE FIRST PETITIONER.**
EXHIBIT P1(a)	**DO. DO. DO. TO THE SECOND PETITIONER.**
EXHIBIT P1(b)	**DO. DO. DO. TO THE THIRD PETITIONER.**
EXHIBITP2	**TRUE COPY OF THE REPRESENTATION DATED 9.3.2007 SUBMITTED BY THE FIRST PETITIONER TO THE FIRS RESPONDENT.**
EXHIBIT P2(a)	**DO. DO. OF THE SECOND PETITOINER, DO. DO.**
EXHIBIT P2(b)	**DO. DO. OF THE THIRD PETITIONER, DO. DO.**
EXHIBIT P3	**TRUE COPY OF THE NOICE DATED 28.3.2007 ISSUED BY THE FIRST RESPONDENT UNDER RULE 15(3) TO THE FIRST PETITIONER.**
EXHIBIT P3(b)	**DO. DO. TO THE SECOND PETITIONER.**
EXHIBIT P3(c)	**DO. DO. TO THE THIRD PETITIONER.**

RESPONDENTS' EXHIBITS: **NIL**

K. PADMANABHAN NAIR, J.

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W.P(C) NO. 11469 OF 2007

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Dated this the 3rd day of April, 2007

J U D G M E N T

Petitioners are challenging Exhibits P3, P3(a) and P3(b) notices by which they were asked to surrender vacant possession of the land and buildings acquired. It is averred that the Land Acquisition Officer has issued notices under Section 9(3) of the Land Acquisition Act directing the petitioners to appear before him before 5 p.m. on 9.3.2007 and produce documents to prove their title to the properties. According to the petitioners though they appeared before the Officer and filed their statements, he refused to accept the same.

2. Learned Government Pleader, after consulting with the Land Acquisition Officer, who is personally present in court, informed that there was no refusal on the part of the Land Acquisition Officer to accept the documents or statements. It is submitted that petitioners did not appear before him on 9.3.2007. It is submitted that the Officer had received the statements filed by the persons who appeared before him on

that day. It is also submitted that the petitioners sent the statements through post only on 30.3.2007 and not on 9.3.2007 as contended by them in the Writ Petition. The original statements received and the postal cover were made available for me by the Government Pleader today for verification. I do not propose to go in detail in that matter. It is submitted by the Government Pleader that a combined Notification under Sections 4 and 17(4) of the Act was issued and the Land Acquisition Officer has enough money to effect part payment and is prepared to issue cheques to the petitioners provided they produce necessary documents. It is submitted that all the petitioners have not produced title deeds or other relevant documents so as to enable him to hand over the cheques.

3. To avoid further delay in the matter, I am of the view that the following directions can be issued: In case the petitioners produce their title deeds, tax receipts, possession certificate, identity cards, etc., as demanded by the Land Acquisition Officer before 3.00 p.m. on 9.4.2007, the Land Acquisition Officer shall verify those documents and if there is no legal impediment, such as order restraining him from releasing

the amount by a competent court, other disputes regarding entitlement to receive the money, etc., cheques for the statutory amount can be issued to the petitioners on proper acknowledgment. It is made clear that in case there is any legal impediment, it is open to the Land Acquisition Officer to deposit the amount before court. The petitioners are given two weeks time from 10.4.2007 to hand over peaceful vacant possession of the land and buildings to the Land Acquisition Officer.

4. Learned counsel for the petitioners submitted that at least two months' time may be given to the petitioners to vacate the buildings and even if the petitioners hand over possession of the same to the Department, it will not be demolished in the immediate future.

5. It is not proper for this Court to take a decision in those matters. However, it is open to the petitioners to make a request before the Land Acquisition Officer seeking further time for vacating the buildings. In case such a request is received, the Land Acquisition Officer will consider the same and take a decision in consultation with the Water Authority, who is the requisitioning authority, and inform the result to the petitioners.

6. Learned Counsel for the petitioners submitted that the original title deed of the property of the first petitioner is hypothecated with a nationalised bank for availing a loan and the title deed will be released only on deposit of the loan amount with interest. It is submitted that the first petitioner will produce a statement from the bank showing that the original title deed is deposited with the bank and also the amount due to the bank as on 9.4.2007. It is prayed that a direction may be issued to the Land Acquisition Officer to issue a cheque for the amount shown in the statement to the Bank and get the title deed released. It is also open to the first petitioner to make such a request before the Land Acquisition Officer and if it is permissible under law, it is open to the Land Acquisition Officer to issue cheque to the Bank and get the title deed released.

Writ Petition is disposed of with the above directions and observations.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. NO. OF

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J U D G M E N T

15TH MARCH, 2007